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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,258	07/11/2003	Jason R. Kirsch	DFP 2003-1	7048
26874	7590	02/09/2006	EXAMINER	
FROST BROWN TODD, LLC 2200 PNC CENTER 201 E. FIFTH STREET CINCINNATI, OH 45202			SHARMA, RASHMI K	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/619,258	KIRSCH, JASON	
	Examiner	Art Unit	
	Rashmi K. Sharma	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-14, 19, 22 and 24-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-5 and 24-34 is/are allowed.
- 6) ☒ Claim(s) 6-14, 19 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-12, 14, 19 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hundebly (CA Patent Application 2,360,474).

Hundebly discloses a particulate unloading system including a rigid platform (2) resting on the surface of the ground in an operational unloading position for supporting a particulate material transporting vehicle (all structure to the left of 8 in Figure 3) where the longitudinal axis of the platform (2) coincides with the direction of travel of a motive power source (8) when the motive power source is moving in a straight line, the platform (2) being pivotally attached to the motive power source for moving the particulate material unloading system from one location to another, the platform (2) being capable of receiving particulate material discharged from the particulate material transporting vehicle, a main particulate material conveyance device (screw conveyor 1) pivotally attached to the platform (2) such that a longitudinal axis of the main particulate material conveyance device (1) is substantially aligned with the longitudinal axis of the platform (2), the main particulate material conveyor device (1) being capable of delivering the particulate material to a holding bin, and at least one secondary particulate material

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conveyance device (screw conveyors 13) for transferring the particulate material received by the platform (2) to the main particulate material conveyance device (1), such that the platform (2) remains connected to the motive power source and the main particulate material conveyance device (1) during unloading and also when moving the particulate material unloading system from one area to another. Hundebly also discloses the motive power source (8) providing the power required to transport the particulate material unloading system from one location to another and operates both the main and secondary material conveyor devices (read Summary section), the platform (2) having upper, lower and side surfaces for receiving and containing the particulate material (see Figure 2), the platform having a semi-open upper surface allowing the particulate material to flow into the platform (2) and into the secondary material conveyance device (13) and wherein the platform (2) has foldable hydraulic ramps (7) on both sides of the platform to reduce its transporting dimensions, wherein the power to drive ramps (7) and all screw conveyors is provided by the motive power source (8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hundebly (CA Patent Application 2,360,474).

Hundebly fails to explicitly show a platform constructed of steel.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to allow Hundebly's platform to be made of steel as utilizing steel construction platform within drive-over auger systems are extremely well known in the art and would also be considered to be a matter of design choice.

Allowable Subject Matter

Claims 2-5 and 24-34 have been allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Reasons for allowing independent claims 2 and 25 has been set forth in the previous Office Actions.

Response to Arguments

All arguments corresponding to the rejections in the previous Office Action are persuasive. Applicant's arguments with respect to claims 6-14, 19 and 22 have been considered but are moot in view of the new ground(s) of rejection.

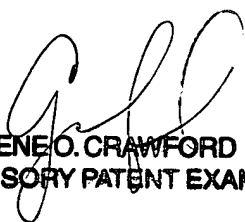
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER